Before the
Federal Communications Commission
Washington, D.C. 20554

In the matter of	)	
	)	
Federal-State Joint Board on	)	
Universal Service	)	CC Docket No. 96-45
	)	
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ORDER AND ORDER ON RECONSIDERATION

Adopted: December 23, 2003 **Released: December 24, 2003**

By the Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, consistent with action taken in the past,[1] we update line counts and other input data used in the Commission's forward-looking economic cost model for purposes of calculating and targeting non-rural high-cost support beginning January 1, 2004. In the attached Order on Reconsideration, we deny a petition filed by the Maine Public Utilities Commission and the Vermont Public Service Board seeking reconsideration of the Wireline Competition Bureau's (Bureau) *2002 Line Counts Update Order*.

II. BACKGROUND

2. In the *First Report and Order*, the Commission established criteria that the model must satisfy for purposes of calculating support based on forward-looking economic costs.[2] Among other things, the Commission required that the model must estimate the "cost of providing service for all businesses and households within a geographic region," including "the provision of multi-line business services, special access, private lines, and multiple residential lines."[3] The Commission reasoned that this requirement was necessary to ensure that the model reflects the economies of scale of serving all lines within a geographic area.[4] Consistent with this criterion, the model uses as inputs estimates of the

[1] *See Federal-State Joint Board on Universal Service*, CC Docket 96-45, Order, 16 FCC Rcd 22418 (Com. Car. Bur. 2001) (*2002 Line Counts Update Order*); *Federal-State Joint Board on Universal Service*, CC Docket 96-45, Order, 15 FCC Rcd 23960 (Com. Car. Bur. 2000) (*2001 Line Counts Update Order*); *Federal-State Joint Board on Universal Service*, CC Docket 96-45, Twentieth Reconsideration Order, 15 FCC Rcd 12,070 (2000) (*Twentieth Reconsideration Order*).

[2] *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, First Report and Order, 12 FCC Rcd 8776, 8915, para. 250 (1997) (*First Report and Order*).

[3] *Id.* at 8915, para. 250.

[4] *See id.* at 8915, para. 250.

number of voice-grade or DS-0 equivalent lines representing residential lines, switched business lines, payphone lines, and special access lines.[5] The number of special access lines is based on the number of high-capacity lines (DS-1 and DS-3 lines) reported by non-rural carriers on a DS-0 equivalent basis as part of the annual Automated Reporting Management Information System (ARMIS) reporting.[6] To determine the number of DS-0 equivalent high-capacity lines, the carriers calculate DS-0 equivalents on a per-channel basis.[7] The model calculates the average cost per line for each wire center by dividing total cost by the sum of residential, switched business, payphone, and special access lines.

3. In the *2001* and *2002 Line Counts Update Orders*, consistent with the framework adopted in the Commission's *Twentieth Reconsideration Order*, the Bureau updated the model's switched access line counts with year-end data reported by non-rural carriers pursuant to sections 36.611 and 54.307 of the Commission's rules.[8] The Bureau concluded that line counts must be updated to account for cost changes and reflect economies of scale, consistent with the Commission criterion discussed above.[9] The Bureau allocated updated switched lines to the classes of service used in the model in the same proportion as the lines reported by non-rural carriers for each wire center in response to the *1999 Data Request*.[10] The Bureau concluded that this approach was preferable to requiring non-rural carriers to disaggregate their year-end line counts by class of service, because it was reasonably accurate and avoided imposing burdensome reporting requirements on non-rural carriers.[11] The Bureau also updated special access lines in the model using annual ARMIS special access line data.[12] The Bureau allocated updated ARMIS special access lines among wire centers based on the *1999 Data Request*, concluding that this was a reasonable approach to estimating special access line growth for purposes of calculating and targeting

[5] *See Federal-State Joint Board on Universal Service,* CC Docket No. 96-45, *Forward-Looking Mechanism for High Cost Support for Non-Rural LECs*, CC Docket No. 97-160, Tenth Report and Order, 14 FCC Rcd 20156, 20186, para. 61, 20327-28, paras. 392-93 (1999).

[6] *See generally, Revision of ARMIS Annual Summary Report, ARMIS USOA Report, ARMIS Joint Cost Report, ARMIS Access Report, ARMIS Service Quality Report, ARMIS Customer Satisfaction Report, ARMIS Infrastructure Report, ARMIS Operating Data Report, ARMIS Forecast of Investment Usage Report for Certain Class A and Tier 1 Telephone Companies*, Order, AAD 95-91, CC Docket No. 86-182, 15 FCC Rcd 24107 (Wireline Compet. Bur., Accounting Safeguards Div. 2000).

[7] *See id.* Each DS-1 is counted as 24 DS-0 equivalent channels, and each DS-3 is counted as 672 DS-0 equivalent channels.

[8] *2002 Line Counts Update Order*, 16 FCC Rcd at 22420-21, paras. 7-8; *2001 Line Counts Update Order*, 15 FCC Rcd at 23694, paras. 9-10; *see* 47 C.F.R. §§ 36.611, 54.307.

[9] *2002 Line Counts Update Order*, 16 FCC Rcd at 22420-21, para. 7; *2001 Line Counts Update Order*, 15 FCC Rcd at 23964, para. 9.

[10] *See 2002 Line Counts Update Order*, 16 FCC Rcd at 22422-23, paras. 13-14; *2001 Line Counts Update Order*, 15 FCC Rcd at 23966-67, paras. 14-16. Non-rural carriers are not required to disaggregate switched lines by class of service pursuant to sections 36.611 and 54.307. 47 C.F.R. §§ 36.611, 54.307. In response to the *1999 Data Request*, non-rural carriers reported disaggregated year-end 1998 lines for each wire center. *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, CC Docket No. 97-160, Forward-Looking Mechanism for High-Cost Support for Non-Rural LECs, Order, DA 99-1406 (Com. Car. Bur. rel. July 19, 1999) (*1999 Data Request*).

[11] *2002 Line Counts Update Order*, 15 FCC Rcd at 22422, para. 13; *2001 Line Counts Update Order*, 15 FCC Rcd at 23966-67, para. 15.

[12] *See 2002 Line Counts Update Order*, 16 FCC Rcd at 22423, para. 14; *2001 Line Counts Update Order*, 15 FCC Rcd at 23966, para. 16. Line counts reported by non-rural carriers pursuant to sections 36.611 and 54.307 include only switched lines.

non-rural high-cost support.[13]

4. The Bureau did not update line counts in the model for purposes of calculating and targeting non-rural high-cost support beginning January 1, 2003, because of the pendency of the *Ninth Report and Order* remand proceeding.[14] In the interim, the Bureau sought comment on updating model input data consistent with the *2001* and *2002 Line Counts Update Orders*.[15] Several commenters raised concerns about the use of special access line count data in the cost model.[16] They argued generally that the cost model is not designed to estimate demand for high-capacity special access lines accurately and that this flaw, combined with recent line growth trends,[17] causes it to understate the cost of providing supported services in rural and high-cost areas.[18] In addition, the Maine Public Utilities Commission and the Vermont Public Service Board (Joint Commenters) submitted an analysis comparing model cost estimates based on (1) Verizon data reflecting the number of high-capacity special access lines in each Maine and Vermont wire center served by Verizon at the end of 2001 and (2) year 2000 ARMIS special access line count data allocated to the same wire centers using the Bureau's allocation methodology.[19] As discussed

[13] *See 2002 Line Counts Update Order*, 16 FCC Rcd at 22423, para. 14; *2001 Line Counts Update Order*, 15 FCC Rcd at 23967, para. 16. ARMIS lines are reported at the study-area level, rather than for each wire center.

[14] *See Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 18 FCC Rcd 41, 46-47, para. 12 (Wireline Compet. Bur. 2003); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Ninth Report and Order and Eighteenth Order on Reconsideration, 14 FCC Rcd 20432 (1999), *remanded, Qwest Corp. v. FCC*, 258 F.3d 1191 (10th Cir. 2001); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order on Remand, Further Notice of Proposed Rulemaking, and Memorandum Opinion and Order, FCC 03-249 (released Oct. 27, 2003). The Bureau adopted an upgraded and corrected version of the model in January 2003, but deferred its use with updated input data until after a Commission decision in the *Ninth Report and Order* remand proceeding, explaining that this action would avoid the possibility of two successive changes in non-rural high-cost support amounts within a relatively short period of time. *Id.*

[15] *Wireline Competition Bureau Seeks Comment on Updating Line Counts and Other Limited Information Used in Calculating High-Cost Universal Service Support for Non-Rural Carriers*, CC Docket No. 96-45, Public Notice, DA 03-25 (rel. Jan. 7, 2003) (*2003 Line Counts Public Notice*).

[16] *See* Maine Public Utilities Commission and Vermont Public Service Board's Comments, filed Feb. 28, 2003, at 4-7 (Maine/Vermont 2003 Public Notice Comments); Verizon's Comments, filed Mar. 3, 2003, at 3 (Verizon 2003 Public Notice Comments); CC Docket No. 96-45, BellSouth Corporation's Reply Comments, filed Mar. 12, 2003, at 2-4 (BellSouth 2003 Public Notice Reply Comments).

[17] Based on ARMIS data, special access lines have increased by approximately 20 percent nationwide for each of the last two years. *See* FCC ARMIS Report 43-08, the Operating Data Report (2002); FCC ARMIS Report 43-08, the Operating Data Report (2001); http://svartifoss2.fcc.gov/eafs/MainMenu.cfm. Switched lines have decreased slightly over the same time period. *See* Federal Universal Service Support Mechanisms Fund Size Projections for the Fourth Quarter of 2003, Appendix HC 05 (Universal Service Administrative Company, August 1, 2003); Federal Universal Service Support Mechanisms Fund Size Projections for the Fourth Quarter of 2002, Appendix HC 04 (Universal Service Administrative Company, August 1, 2002); http://www.universalservice.org/overview/filings/.

[18] For example, Verizon states that the model tends to reduce per-line cost estimates over time "by converting the increased demand for high-speed special access services into voice-grade equivalencies, which lowers the average cost per line and which offsets the overall reduction in demand for voice grade residential service." Verizon 2003 Public Notice Comments at 3. As a result, Verizon maintains that updating special access line count data effectively phases down non-rural high-cost support without a deliberate decision by the Commission. *See id.* at 2-3.

[19] *See* Joint Commenters 2003 Public Notice Comments at 5-6; Letter from Elisabeth H. Ross, Birch Horton, Bittner and Cherot to Marlene H. Dortch, Secretary, Federal Communications Commission, dated May 2, 2003, at 4-5 (Maine/Vermont Ex Parte). The Joint Commenters obtained these data from Verizon under authority derived from state law. Joint Commenters 2003 Public Notice Comments at 3. Verizon subsequently filed the data with the Commission and requested confidential treatment. *See generally*, *id.*; Maine/Vermont Ex Parte. The wire center line count data underlying the Joint Commenters' analysis is available under the terms of a protective order. *See*

(continued....)

below, they contend that their analysis reveals a significant bias existing in the Bureau's special access line allocation methodology.[20]

5. In light of the concerns raised by commenters, the Bureau sought comment on alternative methods for treating special access lines in the model.[21] In particular, the Bureau sought comment on removing special access demand from the cost model on an interim basis until the Commission resolves the underlying model design issues in a comprehensive proceeding.[22] In response, Qwest states that removing special access demand on an interim basis represents a "fair and expeditious" solution to the concerns raised by commenters.[23] Verizon states, however, that it cannot determine whether doing so will produce reasonable results, "or whether more fundamental changes to the model platform are required," without analyzing the impact on support amounts in each state.[24] On the other hand, AT&T and MCI contend that the Bureau should continue to estimate the cost of providing special access as it has in the past.[25] In particular, AT&T argues that removing special access demand would be inappropriate due to the cost interdependence between switched and non-switched services and the growing demand for non-switched services.[26] In this regard, AT&T maintains that the model actually overstates the costs of providing supported services because of its failure to estimate costs associated with "*all* non-switched demand — especially the burgeoning demand for packet data services, such as digital subscriber lines."[27] According to AT&T, "[w]hile the current methodology may be imperfect, it will necessarily produce a more accurate result than the proposed alternative of zeroing out special access lines altogether."[28]

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Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Interim Protective Order, 15 FCC Rcd 10183 (Com. Car. Bur. 2000).

[20] *See* Joint Commenters 2003 Public Notice Comments at 5-6; Maine/Vermont Ex Parte at 4-5; *see infra*, paras. 15-23. As discussed below, the Joint Commenters incorporate by reference their petition for reconsideration of the *2002 Line Counts Update Order*, arguing that their analysis of the Verizon data demonstrates that "the methods used last year and proposed again this year would produce highly unreliable line counts and costs." Joint Commenters 2003 Public Notice Comments at 3; *see infra* para. 28.

[21] *Wireline Competition Bureau Seeks Further Comment on Updating Line Counts Used in Calculating High-Cost Universal Service Support for Non-Rural Carriers*, CC Docket No. 96-45, Public Notice, DA 03-2469 (rel. July 24, 2003) (*2004 Line Counts Update Public Notice*).

[22] *See id.*

[23] Qwest Communications International Inc.'s Comments, filed Sept. 2, 2003, at 4 (Qwest 2004 Public Notice Comments). Qwest also argues that the model's cost estimates are particularly low in areas with a higher-than-average proportion of special access to switched lines. *See* Qwest 2004 Public Notice Comments at 1.

[24] Verizon's Comments, filed Sept. 2, 2003, at 4 (Verizon 2004 Public Notice Comments). Verizon asks that the Bureau publish model cost estimates with and without special access demand at the study-area level before deciding this issue, because it maintains that the information on the Commission's web site is insufficient to run the current version of the model to remove special access demand. *See* Verizon 2004 Public Notice Comments at 4. BellSouth generally concurs with Verizon's comments. BellSouth Corporations Reply Comments, filed Sept. 10, 2003, at 1 (BellSouth 2004 Public Notice Reply Comments)

[25] AT&T Corporation's Comments, filed Sept. 2, 2003, at 4 (AT&T 2004 Public Notice Comments); MCI's Comments, filed Sept. 2, 2003, at 2-3 (MCI 2004 Public Notice Comments).

[26] AT&T 2004 Public Notice Comments at 4.

[27] AT&T 2004 Public Notice Comments at 2. AT&T acknowledges that "properly capturing the impacts on cost of all services that utilize the LECs' networks but that are not explicitly modeled requires changes in the Synthesis Model" that are beyond the scope of this proceeding. AT&T 2004 Public Notice Comments at 5-6. Therefore, AT&T asks that the Commission open a proceeding to consider input and platform changes to the model. *Id.* at 6.

[28] AT&T 2004 Public Notice Reply Comments at 2.

AT&T and MCI also contend that the Bureau should continue to allocate updated ARMIS special access line count data to wire centers based on the *1999 Data Request*.[29]

III. DISCUSSION

A. Switched Line Count Updates

6. Consistent with the framework adopted in the *Twentieth Reconsideration Order* and the *2001* and *2002 Line Counts Update Orders*, we conclude that the cost model should use year-end 2002 line counts filed July 31, 2003, as input values for purposes of estimating average forward-looking costs and determining support for non-rural carriers beginning January 1, 2004.[30] We will adjust support amounts every quarter to reflect the lines reported by non-rural carriers.[31] In addition, we will allocate switched lines to the classes of service used in the model by dividing year-end 2002 lines into business lines, residential lines, payphone lines, and single-line business lines for each wire center in the same proportion as the lines filed pursuant to the *1999 Data Request.*[32]

7. We disagree with BellSouth that line counts should not be updated unless the Bureau also updates road and customer location data.[33] Updated line count data are readily available, whereas updated road and customer location data are not.[34] As we have explained in the past, line count data must be updated to reflect cost changes and economies of scale associated with changes in line counts, consistent with the Commission's forward-looking cost criteria established in the *First Report and Order*.[35] Line count data also should be updated to avoid increasing the lag between such data and the quarterly line count data used to adjust non-rural high-cost support amounts.[36] We are not persuaded that updating line counts is inappropriate because it may fail to reflect certain costs associated with serving new customer locations.[37] The model's use of road surrogate data to determine customer locations ensures that the structure costs associated with serving new customer locations are reflected in model cost estimates

[29] AT&T 2004 Public Notice Reply Comments at 2; MCI 2004 Public Notice Comments at 3.

[30] *2002 Line Counts Update Order*, 16 FCC Rcd at 22420-21, paras. 7-8; *2001 Line Counts Update Order*, 15 FCC Rcd at 23964, paras. 9-10; *Twentieth Reconsideration Order*, 15 FCC Rcd at 12073, para. 8.

[31] *2002 Line Counts Update Order*, 16 FCC Rcd at 22421, para. 9; *2001 Line Counts Update Order*, 15 FCC Rcd at 23965, para. 11; *Twentieth Reconsideration Order*, FCC 00-126, at 12074, paras. 9-10.

[32] *2002 Line Counts Update Order*, 16 FCC Rcd at 22422-23, para. 13; *2001 Line Counts Update Order*, 15 FCC Rcd at 23966-67, paras. 14-15.

[33] *See* BellSouth 2004 Public Notice Reply Comments at 2. *See also* Joint Commenters 2003 Public Notice Comments at 8.

[34] This remains the case even after the release of year 2000 Census data, because such data do not currently exist in a format that the Commission could use to update customer location data. *See 2002 Line Counts Order*, 16 FCC Rcd at 22422, para. 12.

[35] *2002 Line Counts Update Order*, 16 FCC Rcd at 22420, para. 7; *2001 Line Counts Update Order*, 15 FCC Rcd at 23964, para. 9; *see First Report and Order*, 12 FCC Rcd at 8915, para. 250.

[36] *See 2002 Line Counts Update Order*, 16 FCC Rcd at 22421-22, para. 11; *2001 Line Counts Order*, 15 FCC Rcd at 23965, para. 13.

[37] *See* BellSouth 2004 Public Notice Reply Comments at 3. Updating line count data without updating customer location data treats all line growth as occurring at existing, rather than new, customer locations. *See 2001 Line Counts Order*, 15 FCC Rcd at 23965, para. 12.

unless such locations are along new roads.[38] BellSouth contends that recent switched line decreases and new housing growth in its service territory undermine the assumption that most new lines are either placed at existing customer locations or along existing cable routes, but it submits no data in support of this contention.[39] Switched lines nationwide decreased by 3.3 percent in 2002, and Commission data indicate that households increased by approximately one percent.[40] Based on these data, we cannot conclude that the trends identified by BellSouth justify not updating line count data. On balance, we find that updating line count data is the best approach for estimating forward-looking costs and determining non-rural high-cost support amounts for 2004.

8. We also disagree with AT&T's argument that we should use projected lines for the end of the 2004 funding year, rather than the most recent reported year-end lines (end of 2002), to match the line count data used to estimate forward-looking costs with the quarterly line count data used to adjust non-rural high-cost support amounts.[41] AT&T has not proposed a methodology for projecting lines. Verizon argues that any such methodology would be complex, difficult, and overly burdensome for purposes of estimating forward-looking costs.[42] We also note that, as stated above, switched lines have declined recently, suggesting the difficulty of accurately projecting lines based on historical data.[43] Consistent with the *2001* and *2002 Line Counts Orders*, we find that year-end 2002 line counts are the appropriate data to use for updating the cost model's input values at this time.[44]

B. Special Access Line Count Updates

9. Consistent with the *2002* and *2001 Line Counts Update Orders*, we will use year 2002 ARMIS special access line count data as model inputs to estimate forward-looking costs and determine non-rural high-cost support amounts in 2004. On balance, we conclude that this approach is consistent with the Commission's criteria for estimating forward-looking costs and with applicable universal service principles. We also will continue to divide the updated special access lines among wire centers in the

[38] *See 2001 Line Counts Order* 15 FCC Rcd at 23965, para. 13 ("If the 'missing' new locations are anywhere along the road network used to create the surrogate locations, the outside plant structure costs already would be included in the model's cost estimates.").

[39] BellSouth 2004 Public Notice Reply Comments at 2-3 ("Clearly, BellSouth's number of switched access lines are declining. Also, it is clear that new housing starts in BellSouth's territory, as in much of the nation, have risen tremendously since 1996. This is particularly evident in the past year or so as a result of record low mortgage rates."); *see 2002 Line Counts Order*, 16 FCC Rcd at 22421-22, para. 11, note 26; *2001 Line Counts Order*, 15 FCC Rcd at 23965, para. 12.

[40] *Trends in Telephone Service*, Industry Analysis and Technology Division, Wireline Competition Bureau, Table 16-1 (Aug. 2003), available at http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/IAD/trend803.pdf. Commission data also indicate that since 1996, the average annual rate of change in the number of households is 1.2 percent. *Id.*

[41] AT&T 2003 Public Notice Comments at 4-5.

[42] Verizon's Reply Comments, filed Mar. 12, 2003, at 1-2 (Verizon 2003 Public Notice Reply Comments).

[43] *See supra* note 18; Verizon 2003 Public Notice Reply Comments at 2 ("Simple projections of past growth trends would fail to capture factors that cause out-of-trend changes in demand for telephone service, such as economic downturns or recoveries, price changes that stimulate or depress demand, and changes in the amount of bypass to competing providers.").

[44] The Florida Public Service Commission proposes that model cost estimates be updated on a quarterly basis using the same lines as are used to adjust quarterly support payments. *See* Florida Public Service Commission's Comments, filed Feb. 19, 2003, at 2. This proposal is inconsistent with the framework adopted in the *Twentieth Reconsideration Order* and, therefore, is appropriately addressed in a future Commission proceeding regarding model updates. *See Twentieth Reconsideration Order*, FCC 00-126 at paras. 5, 8.

same proportion as the special lines from the *1999 Data Request*. As discussed below, we conclude that this methodology is a reasonable approach for estimating special access line growth to determine non-rural high-cost support amounts in 2004.

10. Based on our examination of the record, we continue to find that it is appropriate to update special access lines for purposes of determining non-rural high-cost support in 2004. The *First Report and Order* requires that the model reflect the economies of scale of serving all business and residential lines, including special access lines.[45] Consistent with this criterion, the Bureau always has included special access line count data within its cost estimates.[46] Removing special access line count data from the model's cost calculations would ignore the demand for special access services.[47] We find that removing special access lines would be inconsistent with the Commission's criteria requiring that the model reflect the economies of scale of serving all business and residential lines, including special access lines.[48]

11. We also conclude that updating special access line count data for purposes of determining non-rural high-cost support in 2004 is consistent with the principle set forth in section 254(b)(5) of the Act that the universal service support mechanism should be specific and predictable.[49] Because different states have different percentages of special access lines, removing them has differential effects on costs and, therefore, support among states. We decline to adopt an interim approach to estimating costs that would significantly change support in some states outside the context of a Commission proceeding to address the underlying model design issues raised by commenters. We conclude that it would be more appropriate to maintain continuity of support until these issues can be addressed comprehensively in a future Commission proceeding.[50]

12. The current record is insufficient to permit us to reach a conclusion as to what adjustments may be needed, if any, to the model's process for counting high-capacity special access lines. Although some commenters argue that the model understates costs by counting high-capacity lines as voice-grade equivalents,[51] it may overstate costs by deploying high-capacity lines on copper instead of fiber. Some commenters also argue that the model overstates costs because it does not include inputs for non-switched services such as digital subscriber lines.[52] In other words, to the extent that adjustments to the model may

[45] *See First Report and Order,*12 FCC Rcd 8776 at 8912-16, para. 250; MCI 2004 Public Notice Comments at 3.

[46] *See 2002 Line Counts Update Order*, 16 FCC Rcd at 22423, para. 14; *2001 Line Counts Update Order*, 15 FCC Rcd at 23967, para. 16.

[47] *See* AT&T 2004 Public Notice Comments at 4-5.

[48] *See First Report and Order,*12 FCC Rcd 8776 at 8912-16, para. 250; MCI 2004 Public Notice Comments at 3.

[49] *See* 47 U.S.C. § 254(b)(5); *Federal-State Joint Board on Universal Service*, CC Docket Nos. 96-45, 97-160, Fifth Report and Order, 13 FCC Rcd 21323, 21329, para. 13 (1998) ("We must balance the need to provide predictability and certainty with the need to account for changes that inevitably will occur over time, such as technological advances.").

[50] 47 U.S.C. § 254(b)(5); *see Delphi Order*, 18 FCC Rcd at 46-47, para. 12 (deferring use of upgraded, corrected version of the model until a decision in the *Ninth Report and Order* remand proceeding, to "avoid the possibility of two successive changes in the model's calculations and support amounts within a relatively short period of time."); *see also* Verizon 2004 Public Notice Comments at 3-4; BellSouth 2004 Public Notice Reply Comments at 1-2.

[51] *See* Verizon 2004 Public Notice Comments at 1-3.

[52] *See, e.g.*, AT&T 2004 Public Notice Comments at 5.

be needed, such adjustments may increase some costs and reduce others.[53] Consequently, we believe that the most prudent approach is to wait for further action by the Commission to consider several model improvements, specifically including the process for estimating special access demand. In the meantime, we conclude that updating special access line count data for purposes of determining non-rural high-cost support in 2004 is consistent with the Commission's forward-looking cost criteria and with applicable universal service principles.[54]

13. We reject BellSouth's contention that special access line count data should be removed from the model's cost calculations for purposes of determining non-rural high-cost support based on the Bureau's decision to remove special access demand to set unbundled network element (UNE) prices in the Virginia arbitration proceeding.[55] Different rules and principles apply in this proceeding that warrant a different approach. In that proceeding, the Bureau was faced with two proposals for accounting for special access lines and their associated costs in setting Verizon Virginia, Inc.'s UNE rates.[56] Under total element long range incremental cost (TELRIC) principles, the Bureau had to choose the methodology which would result in UNE rates within a range of reasonableness.[57] Here, in contrast, we must determine how to treat special access lines for purposes of calculating non-rural high-cost support. Whereas the Bureau's decision in the Virginia arbitration proceeding affected UNE rates in one state, non-rural high-cost support is determined based on the relationship between each state's average cost per line and the nationwide average. Because different states have different percentages of special access lines, removing special access lines from the model's cost calculations may significantly change support in some states. Our decision here is guided in part by the section 254(b)(5) principle that universal service support should be specific and predictable.[58] Under the circumstances, we conclude that a different approach is warranted for the purpose of determining non-rural high-cost support.

14. We also reject Verizon's request that we publish model cost estimates with and without special access demand at the study-area level before deciding this issue. Verizon argues that it cannot determine whether zeroing out special access lines would produce reasonable results because the Commission has not provided adequate data to allow interested parties to "run the latest version of the model to remove special access demand."[59] Contrary to Verizon's claim, the Commission provides all the

[53] *See* MCI 2004 Public Notice Reply Comments at 3 ("Correcting for an alleged overstatement of [special access] lines without at the same time correcting for a known understatement of [digital subscriber] lines would be inappropriate.").

[54] *See First Report and Order,*12 FCC Rcd 8776 at 8912-16, para. 250. We note that certain commenters have suggested that the Bureau only remove DS-3 as an alternative to zeroing out all special access lines. *See* Verizon 2004 Public Notice Comments at 3. This proposal, however is not possible to implement because DS-3 lines are currently not reported differently from other high-capacity access lines in ARMIS filings and therefore cannot be separated from these data.

[55] BellSouth 2004 Public Notice Reply Comments at 3-4; *see In the Matter of Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia, Inc. and for Expedited Arbitration, et al*., CC Docket Nos. 00-218, 00-251, Memorandum Opinion and Order, DA 03-2738 (Wireline Compet. Bur. rel. Aug. 29, 2003) (*Virginia Arbitration Order*).

[56] *Virginia Arbitration Order*, DA 03-2738, at paras. 171, 210.

[57] *Id.* at para. 210.

[58] 47 C.F.R. § 254(b)(5).

[59] Verizon 2004 Public Notice Comments at 3.

necessary tools and data to run the model without special access lines.[60] Specifically, both the model and ARMIS special access line data are made available to the public on the Commission's web site.[61] Further, switched line count data are available to the public under a protective order.[62]

15. We also will continue to divide the updated special access lines among wire centers in the same proportion as the special access lines from the *1999 Data Request*. We conclude that allocating year 2002 ARMIS special access lines based on the *1999 Data Request* remains a reasonable approach for estimating special access line growth for purposes of calculating and targeting non-rural high-cost support for 2004. In this regard, we have analyzed the Verizon data submitted by the Joint Commenters.[63] Based on our analysis, we are not persuaded that the Bureau's allocation methodology is unreliable or produces biased results.

16. As stated above, the Joint Commenters submitted an analysis comparing model cost estimates based on (1) Verizon data reflecting the number of high-capacity special access lines in each Maine and Vermont wire center served by Verizon at the end of 2001 and (2) year 2000 ARMIS data allocated to wire centers using the Bureau's methodology. They contend that their analysis demonstrates that the Bureau's allocation methodology produces "significant errors" (defined as line count data requiring a correction of 25 percent or more) for 78 percent of the wire centers.[64] They further contend that this methodology overestimates special access lines within 83 percent of wire centers with less than 3,000 switched lines,[65] and underestimates special access lines in 67 percent of wire centers with more than 10,000 switched access lines.[66] As a result, they claim that the data used by the Bureau to allocate special access lines are "unreliable for both urban and rural areas."[67] The Joint Commenters also calculated an "average cost correction" for wire centers in five size groups (based on switched access lines). They contend that the correction factors vary according to wire center size, and that their application to 2002 support amounts increases support by $0.49 per line for Maine and by $0.50 per line for Vermont.[68] They argue that the Bureau should use special access line count data used to estimate costs for the 2000 funding year, or provide non-rural carriers with the greater of the amount calculated with updated data *or* the amount provided in 2000.[69]

17. As an initial matter, we disagree with the premise of the Joint Commenters' analysis that the goal of the allocation methodology is to achieve an exact correspondence between the lines assigned to a given wire center in the model and the actual number of lines served. Rather, the goal is to achieve reasonable results that are consistent with the Commission's forward-looking cost criteria using the best

[60] Specifically, in order to run the model without special access lines, after exporting data in the appropriate Microsoft Access files into Microsoft Excel spreadsheets, special access then can be set to zero before importing these data back into Microsoft Access files.

[61] *See* http://www.fcc.gov/wcb/tapd/hcpm/; http://gullfoss2.fcc.gov/cgi-bin/websql/prod/ccb/armis1/forms/armis.hts.

[62] *See Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Interim Protective Order, 15 FCC Rcd 10183 (Com. Car. Bur. 2000).

[63] *See* Joint Commenters 2003 Public Notice Comments at 3; Maine/Vermont Ex Parte Attachment at 1.

[64] *See* Joint Commenters 2003 Public Notice Comments at 4-5 & n.4.

[65] *See* Joint Commenters 2003 Public Notice Comments at 5; Maine/Vermont Ex Parte Attachment, at 4.

[66] *See* Joint Commenters 2003 Public Notice Comments at 5; Maine/Vermont Ex Parte Attachment, at 4.

[67] Maine/Vermont Ex Parte at 5.

[68] *See* Joint Commenters 2003 Public Notice Comments at 7.

[69] *Id.* at 9.

available data.[70] For example, the *1999 Data Request* required carriers to report intrastate "private lines" with special access lines, pursuant to the criterion that the model estimate the cost of serving all businesses and households, including the cost of special access and private lines.[71] The Commission has never used the number of private lines as model inputs, however, because nationwide private line data had not been available until this year.[72] The Bureau's methodology assigns updated ARMIS special access lines to a wire center based on the proportion of special access *and* private lines reported for that wire center in the *1999 Data Request*. Thus, we would expect differences between the number of lines the allocation methodology assigns to a given wire center in the model and the number of special access lines a carrier serves in that wire center.

18. In addition, because it compares model lines and Verizon lines from two different time periods, the analysis is not the "apples-to-apples" comparison that the Joint Commenters set out to achieve. The Joint Commenters compared model lines based on year 2000 ARMIS special access line count data with year 2001 special access lines obtained from Verizon. Furthermore, the analysis focuses on the number of special access lines assigned to wire centers, rather than the percentages of lines in a study area that are assigned to wire centers. Even if the Joint Commenters had compared model and Verizon data from the same year, as explained above, we would not expect the number of special access lines assigned to a wire center to be the same. The Bureau's methodology assigns special access lines to wire centers using fractions calculated based on the *1999 Data Request*.[73] Thus, a more appropriate comparison for evaluating the Bureau's methodology would be to compare the *percentage* of special access lines in a study area that are assigned to a wire center using the Bureau's methodology with the percentage of total special access lines in the study area that are identified in the Verizon data as serving that wire center.

19. After analyzing the two data sets on which the Joint Commenters base their analysis, we cannot conclude that the Bureau's allocation methodology produces unreliable or biased results. We first analyzed the data sets for differences between the percentages of total special access lines assigned to individual wire centers, using the Joint Commenters' wire center size categories. We found that for the 45 wire centers with less than 3,000 lines, the Bureau's methodology assigns a higher percentage of lines than Verizon's special access lines in most cases (consistent with the Joint Commenters' contention), but the average difference between the model percentages and the Verizon percentages is very small – only -0.1 percent.[74] For the 24 wire centers with over 10,000 switched lines, we found that the Bureau's methodology assigns a lower percentage of lines than the Verizon data in only 33 percent of the wire centers. Contrary to the Joint Commenters' findings, the Bureau's methodology assigns a higher percentage of lines than the Verizon data in most wire centers from this group.[75] We also analyzed the correlation between wire center size and percentage differences between model lines and Verizon lines. As shown on Attachment A, although we found an overall correlation of +0.541, this correlation is caused

[70] *See First Report and Order*, 12 FCC Rcd at 8912-16, para. 250.

[71] *1999 Data Request*, DA 99-1406 at para. 7; *First Report and Order*, 12 FCC Rcd at 8915, para. 250.

[72] Private line data are now included in ARMIS reports. *See infra* note 89.

[73] The Bureau's methodology, therefore, assumes the same special access line growth rate across all wire centers in a study area.

[74] The range in differences between the Verizon data and the Bureau's allocation methodology based on the *1999 Data Request* is -0.7 to +0.6 percent. For purposes of this discussion, a negative sign indicates that the average number of Verizon lines is less than the average number of model lines, and a positive sign indicates the reverse.

[75] Thus, although the average difference is in the positive direction, consistent with the Joint Commenters' findings, most wire centers in this group show changes in the opposite (negative) direction. The average difference for wire centers in this group is +0.6 percent, but the median differences is -0.3 percent.

mainly by two outlier data points.[76] Thus, although our analysis reveals differences between model lines and Verizon's special access lines that are on average negative in small wire centers and positive in large wire centers, the differences are very small – less than 1 percent – and do not reveal a pattern that supports the Joint Commenters' allegation of substantial systematic bias.

20. Furthermore, our analysis of the Joint Commenters' cost results does not show a consistent pattern in the data that would support their allegation of bias. Again, for purposes of our analysis, we used the Joint Commenters' wire center size categories. As stated above, they contend that the differences in model cost estimates based on Verizon lines and model lines correlate to wire center size: higher-density (urban) wire centers have lower costs and lower-density (rural) wire centers have higher costs based on Verizon lines. Although this is true, on average, most of the wire centers within their groups do not conform to this pattern. For small wire centers with 0 to 1,000 lines, the Joint Commenters found that the average difference was +$0.11.[77] Twenty-eight of the 34 wire centers in this group have lower costs using Verizon data, however. For wire centers with 1,000 to 2,500 lines, the Joint Commenters found that the average difference was +$0.23,[78] but 57 out of the 77 wire centers in this group have lower costs using Verizon data. Thus, the majority of small, rural wire centers show differences that are counter to the Joint Commenters' allegation of bias.[79]

21. We also analyzed the cost results when the Verizon data are adjusted to match the vintage of the other line count data used in the Joint Commenters' analysis. As discussed above, they compared two vintages of special access lines: year 2000 ARMIS line count data and 2001 line count data obtained from Verizon.[80] To obtain cost results, they used these data in combination with year-end 2000 switched line counts. The Bureau runs the model using switched and special access lines from the same year, however, which is important for purposes of analyzing cost results because it allows one to distinguish between effects due to changes in the overall number of lines and changes due to the allocation of lines.[81] Accordingly, Bureau staff factored down the Verizon year 2001 special access data to reflect the total year 2000 ARMIS special access line data, and combined this data with year-end 2000 switched line count data to obtain adjusted cost results.[82] Comparing these adjusted results to results based on model lines, we again found that although the average differences were consistent with the Joint Commenters' findings, most wire centers showed differences counter to the allegation of bias.[83] As shown in Attachment B, the overall result of our analysis of the relationship between wire center size and

[76] Our correlation analysis is based on all of the wire centers, rather than the averages for the wire center categories used by the Joint Commenters.

[77] Joint Commenters 2003 Public Notice Comments at 7.

[78] *Id.*

[79] For large wire centers with over 25,000 lines, the Joint Commenters found that the average difference was -0.78, but one of the five wire centers in this group has higher costs using model lines.

[80] Joint Commenters 2003 Public Notice Comments at 3.

[81] *See 2002 Line Counts Update Order*, 16 FCC Rcd at 22421, 22423, para. 8, 14; *2001 Line Counts Update Order*, 15 FCC Rcd at 23964, 23967, para. 10, 16.

[82] The Bureau factored down the Verizon 2001 special access line data by the ratio of total special access lines for year 2000 and the total special access lines for year 2001 — approximately 0.75.

[83] Specifically, for wire centers with 0 to 1,000 switched access lines, we found a cost difference of $0.62. However, 26 of the 34 wire centers in that category showed negative changes in costs. For wire centers with 1,000 to 2,499 switched access lines, the change in cost was $0.50, but 50 of the 77 wire centers showed a negative change in cost. Moreover, for the five large wire centers with 25,000 or more switched access lines, we found an average change in cost of -$0.30, but one wire center in that group had a positive change and another wire center had only a minor negative change.

differences in cost results based on adjusted Verizon lines and model lines was a slight statistical correlation of -0.085 percent.[84] Given the slight correlation between costs and size in the two states and the various directions of cost corrections for wire centers within each group, we cannot conclude that the Joint Commenters' cost correction factors are reliable. In sum, therefore, we conclude that allocating year 2002 ARMIS special access lines based on the *1999 Data Request* remains a reasonable approach for estimating special access line growth for purposes of calculating and targeting non-rural high-cost support for 2004, and that the Joint Commenters' analysis does not establish that this methodology is unreliable or produces biased results.

22. Finally, the Joint Commenters do not establish an alternative methodology that would provide fairer or more reasonable results. Even if their cost correction factors were reliable for Maine and Vermont, there is no reason to believe the same factors would be reliable nationwide. The differences in costs based on special access lines and costs based on model lines are likely to differ significantly by state given the diversity of terrain, population density, and size. Because support is determined in relationship to the nationwide average cost, we would have concerns about applying cost correction factors derived from two states to the nation as a whole.[85] Moreover, if state-specific cost correction factors were used, it is not clear that the states of Maine and Vermont would see a "substantial" increase in support.[86] Depending upon the "corrected" costs in other states, their support could also decrease.

23. In the absence of new data, the Joint Commenters urge the Commission to revert to the special access line counts used to distribute support in 2000, that is, year 1998 ARMIS special access lines.[87] Using these lines counts would provide demonstrably less reliable results than the current methodology for two reasons. Prior to ARMIS reporting year 2000, some carriers were under-reporting their special access lines by reporting special access circuits terminating at multiple customer premises as a single special access line, rather than as multiple special access lines.[88] As part of its ongoing effort to improve data consistency, the Bureau subsequently clarified how special access lines should be reported in a consistent fashion.[89] As a result, Verizon's special access lines increased substantially between year

[84] Our correlation analysis is based on all data points instead of the averages of the grouped data that the Joint Commenters used.

[85] *See e.g.*, MCI 2004 Public Notice Comments at 3.

[86] Joint Commenters 2003 Public Notice Comments at 7. The Joint Commenters do not specifically propose that we apply their cost correction factor nationwide, but they did so for purposes of their own analysis. Based on this analysis, they claim that support in Maine would increase from $5.45 to $9.56 billion and support in Vermont would increase from $9.09 to $11.26 billion. *Id.*

[87] Joint Commenters 2003 Public Notice Comments at 9.

[88] *See Revision of ARMIS Annual Summary Report, ARMIS USOA Report, ARMIS Joint Cost Report, ARMIS Access Report, ARMIS Service Quality Report, ARMIS Customer Satisfaction Report, ARMIS Infrastructure Report, ARMIS Operating Data Report, ARMIS Forecast of Investment Usage Report for Certain Class A and Tier 1 Telephone Companies*, Order, AAD 95-91, CC Docket No. 86-182, 15 FCC Rcd 24107, 24134 (Com. Car. Bur., Acct. Aud. Div. 2000). After this clarification, Verizon reported significant increases in its special access lines in Maine and Vermont, among other Verizon states, which may explain the decreases in support in Maine and Vermont following the 2000 funding year.

[89] *See id*; *see also Revision of ARMIS Annual Summary Report, ARMIS USOA Report, ARMIS Joint Cost Report, ARMIS Access Report, ARMIS Service Quality Report, ARMIS Customer Satisfaction Report, ARMIS Infrastructure Report, ARMIS Operating Data Report, ARMIS Forecast of Investment Usage Report*, and ARMIS Actual Usage of Investment Report for Certain Class A and Tier 1 Telephone Companies, Order, AAD 95-91, CC Docket No. 86-182, 17 FCC Rcd 25421, 25452 (Wireline Compet. Bur., Industry Analysis and Technology Div. 2002) (clarifying that state special access lines should be reported as a separate category).

1999 ARMIS reports and year 2000 ARMIS reports.[90] Second, the method used to allocate special access lines to wire centers in the model's first year of operation was not as reliable as our current method. Because we had not yet developed a methodology to use the *1999 Data Request* to allocate lines to wire centers, we used the only data available at the time to allocate lines: the wire center line counts developed by PNR Associates, trued-up to year 1998 ARMIS line counts.[91] The allocations in the *1999 Data Request* are more reliable because the data were filed by the carriers, rather than being estimated by PNR's National Access Line Model.

C. Other Issues

24. Consistent with the *2002 Line Counts Update Order*, we will update the model with year 2002 ARMIS data used to compute general support facilities (GSF) investment so that the model's cost estimates take into account the current costs of GSF investment associated with supported services.[92] In addition, we will update the model with the most recent traffic parameters available from the National Exchange Carrier Association (NECA) to determine the percentage of the switch allocated to supported services and the switch port requirement for interoffice transport.[93] We also will use the methodology employed in the *2001* and *2002 Line Counts Orders* to match wire centers reported by non-rural carriers in their quarterly line count data used to adjust non-rural high-cost support amounts with the wire centers found in the *1999 Data Request* and in the model's customer location data.[94] Commenters generally support these input updates.[95]

25. Some commenters express concerns regarding reporting of unbundled network element (UNE) lines that are sold or leased to competitive LECs for purposes of calculating and targeting non-rural high-cost support amounts. In particular, AT&T urges that leased lines and UNE lines must be reported to ensure that the model's cost estimates reflect the demand for total lines.[96] The Maine and Vermont Commissions state that some non-rural carriers do not include UNE lines in their ARMIS reports, a practice which could reduce support amounts by exaggerating per-line costs in urban areas with substantial UNE-based competition relative to per-line costs in other areas.[97] We clarify that the model uses lines reported to NECA pursuant to section 36.611 to estimate switched line demand, and that NECA requires that carriers report both leased lines and UNE lines that are sold to competitive LECs for purposes of section 36.611 reporting.[98]

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[90] We note that this increase, rather than the Bureau's allocation methodology, may be the "principal reason Maine and Vermont received reduced support in 2002." Joint Commenters 2002 Public Notice Comments at 2.

[91] *See Tenth Report and Order*, 14 FCC Rcd at 20181-82, 20186, para. 51, 61.

[92] 2002 *Line Counts Order*, 16 FCC Rcd at 22424, paras. 16-17.

[93] *Id.* at paras.18-19.

[94] *See 2002 Line Counts Order*, 16 FCC Rcd at 22423, para. 15; *2001 Line Counts Order*, 15 FCC Rcd at 23967, para. 17.

[95] AT&T 2004 Public Notice Comments at 7; Florida Public Service Commission 2003 Public Notice Comments at 3.

[96] AT&T 2004 Public Notice Reply Comments at 5.

[97] Joint Commenters 2003 Public Notice Comments at 8.

[98] *See National Exchange Carrier Association Pool Adminsitration Procedures, Section 5*, Common Line Pool, Traffic Sensitive Pool and Lifeline Assistance Reporting, Exhibit 5-2 (2003). We note that the Bureau recently directed carriers to identify the types of UNEs (e.g., "UNE-P") included in ARMIS access line data to allow the public and the Commission to better understand the data submitted in ARMIS reports. *In the Matter of Revision of ARMIS Annual Summary Report (FCC Report 43-01), ARMIS USOA Report (FCC Report 43-02), ARMIS Joint*

(continued....)

26. AT&T urges the Commission to initiate a proceeding to consider improvements to the model's platform and inputs, arguing that the model has "well-known deficiencies" and that recent developments confirm the inaccuracy of certain model platform and input assumptions.[99] Such a proceeding is beyond the scope of the Bureau's delegated authority. The Commission has expressed its intention to initiate a proceeding to study proposed changes to the model inputs and model platform in a comprehensive manner.[100]

IV. PETITION FOR RECONSIDERATION OF THE *2002 LINE COUNTS UPDATE ORDER*

A. Background

27. On February 25, 2002, the Maine Public Utilities Commission and the Vermont Public Service Board (Petitioners) filed a petition for reconsideration of the *2002 Line Counts Update Order*.[101] Among other things, Petitioners contend that the Bureau did not provide adequate notice of its decision to update line count data and other inputs used to calculate non-rural high-cost support for 2002, and that the Bureau used unreliable data in estimating special access line counts. Petitioners request that the Commission distribute high-cost support for 2002 based on whichever is greater for each non-rural carrier, the support amount that they received in 2000, or the support amount received for 2002.[102]

28. In response to the *2003 Line Counts Public Notice*, Petitioners filed comments that incorporated by reference their petition for reconsideration of the *2002 Line Counts Update Order.*[103] In their comments, they argued that "the methods used last year and proposed again for this year would produce highly unreliable line counts and costs."[104] In support of these arguments, they relied on their analysis of the Verizon data discussed in the foregoing Order.[105]

(...continued from previous page)
Cost Report (FCC Report 43-03), ARMIS Access Report (FCC Report 43-04), ARMIS Service Quality Report (FCC Report 43-05), ARMIS Customer Satisfaction Report (FCC Report 43-06), ARMIS Infrastructure Report (FCC Report 43-07), ARMIS Operating Data Report (FCC Report 43-08), ARMIS Forecast of Investment Usage Report (FCC Report 495A), and ARMIS Actual Usage of Investment Report (FCC Report 495B) for Certain Class A and Tier 1 Telephone Companies, Order, CC Docket No. 86-182, DA 03-3912 at para. 13 (Wireline Compet. Bur. rel. Dec. 17, 2003).

[99] AT&T 2003 Public Notice Reply Comments at 8-9.

[100] *See Federal-State Joint Board on Universal Service, Forward-Looking Mechanism for High Cost Support for Non-Rural LECs*, Tenth Report and Order, CC Docket Nos. 96-45, 97-160, 14 FCC Rcd 20156, 20170, para. 28 (1999) (*Tenth Report and Order*) ("We therefore have committed to initiating a proceeding to study how the model should be used in the future (*e.g.*, how inputs data should be updated) and how the model itself should change to reflect changing circumstances."). *See also 2000 Biennial Regulatory Review – Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2*, CC Docket No. 00-199, Report and Order, 16 FCC Rcd 19911, 19929 n. 69 (2001).

[101] *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Maine Public Utilities Commission's and Vermont Public Service Board's Petition for Reconsideration, filed Feb. 25, 2002 (Maine/Vermont Petition).

[102] Maine/Vermont Petition at 27-28. As discussed *supra*, Petitioners maintain that the data used to determine non-rural high-cost support for 2000 is more reliable than the data used in subsequent years. *See supra* para. 23.

[103] Maine/Vermont 2003 Public Notice Comments at 3.

[104] *Id.*

[105] *Id.*

B. Discussion

29. We do not address Petitioners' arguments that the model input data used by the Bureau pursuant to the *2002 Line Counts Update Order* was unreliable, because these arguments are fully addressed in the foregoing Order. As demonstrated in the foregoing Order, there is no merit to Petitioners' contention that the Bureau's methodology for allocating updated special access lines in the model is unreliable or produces biased results.[106] As also explained above, and contrary to Petitioners' assertion, it is appropriate to use data sources from different years in the model when these are the best available data to achieve reasonable results that are consistent with the Commission's forward-looking cost criteria and with applicable universal service principles. Below, we conclude that Petitioners' contention that the Bureau failed to provide adequate notice of its decision to update data in the *2002 Line Counts Update Order* is without merit.

30. Petitioners argue that the Bureau's *2002 Line Counts Public Notice* seeking comment on updating line counts for 2002 did not provide adequate notice that "routine updating of line counts would substantially reduce the support available for Verizon customers in their states."[107] We disagree. The Bureau clearly stated in the *2002 Line Counts Update Notice* that it was considering updating line count data in the model using the same methodology as the Bureau used in the *2001 Line Counts Update Order*.[108] In particular, for purposes of determining support for the year 2002, the Bureau sought comment on updating the switched line counts in the model with year-end 2000 wire center line count data, updating special access line counts with year 2000 ARMIS data, and using the Bureau's *1999 Data Request* to allocate the updated lines.[109] In the *2002 Line Counts Update Order*, the Bureau then applied these methodologies to estimate switched line and special access line count growth. Therefore, the Bureau provided adequate notice in the *2002 Line Counts Public Notice* of the method it used to update model inputs in the *2002 Line Counts Update Order*.

31. As the Bureau informed the public that it was considering the same framework for 2002 updates as it had in the past, we also disagree with Petitioners that they lacked adequate notice of the potential impact of input updates on 2002 support distributions. Consistent with the Commission's criterion that "[t]he cost study or model and all underlying data, formulae, computations, and software associated with the model must be available to all interested parties for review and comment,"[110] the model was posted on the Commission's website, and the input data used by the Bureau was available to the public either on the website or under a protective order or licensing agreement.[111] Petitioners were therefore capable of determining the support distributions for 2002 based on the model's cost calculations before the *2002 Line Counts Update Order* was adopted. If Petitioners believed the support distributions were inappropriate, they had the burden of identifying why specific inputs should not have been updated, but Petitioners did not meet this burden.[112] We therefore find that Petitioners had adequate notice of the

[106] *See supra* paras. 15-21.

[107] *See* Maine/Vermont Petition at 9.

[108] *See Common Carrier Bureau Seeks Comment on Updating Line Counts and Other Limited Information Used in Calculating High-Cost Universal Service Support for Non-Rural Carriers*, CC Docket No. 96-45, Public Notice, DA 01-2107, at 3 (rel. Sept. 11, 2001) (*2002 Line Counts Update Public Notice*).

[109] *2002 Line Counts Public Notice* at 3.

[110] *First Report and Order*, 12 FCC Rcd at 8915, para. 250.

[111] *See Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Interim Protective Order, 15 FCC Rcd 10183 (Com. Car. Bur. 2000) (*Interim Protective Order*). The customer location data used in the model is available through the Universal Service Administrative Company under a licensing agreement with PNR Associates.

[112] *See Qwest v. FCC*, 258 F.3d at 1205-06.

potential impact on non-rural high-cost support amounts of the model input updates proposed in the *2002 Line Counts Public Notice*.[113]

32. Petitioners further argue that the *2002 Line Counts Public Notice* failed to notify parties that the Bureau would count special access lines as voice grade equivalent channels in the model's inputs, special access lines would increase in various non-rural wire centers, and updated line counts would be matched with older data for purposes of assigning such lines to wire centers.[114] We reject these claims for the following reasons. First, in the *2002 Line Counts Update Notice*, the Bureau stated it was considering updating special access lines as it had done in the past, which was to count special access lines as voice grade equivalent channels.[115] In the comment cycle in that proceeding, Verizon requested that the Bureau count special access lines as facilities for purposes of calculating support for 2002.[116] The Bureau, however, noted in the *2002 Line Counts Update Order* that such an alteration would require a platform change outside the scope of the proceeding, and deferred consideration of this issue until a future proceeding on possible improvements to the model platform and inputs.[117] Similarly, because Petitioners were notified that special access lines would be updated using the same methodology as in the past, Petitioners could access year 2000 ARMIS special access filings for the non-rural carriers in their states on the Commission's website to find out whether special access lines increased or decreased for 2002 cost estimates.[118] Consequently, we reject Petitioner's argument that the *2002 Line Counts Update Public Notice* failed to apprise interested parties of the methodology used to update special access lines in the *2002 Line Count Updates Order*. We find that the *2002 Line Counts Public Notice* was clear in seeking comment on whether to update the model's inputs consistent with past practice.

33. Petitioners also argue that the Bureau did not make available line count data at the time of release of the *2002 Line Counts Update Public Notice* due to proprietary treatment of these data.[119] This claim is incorrect. In the *First Report and Order*, the Commission established, as one of the criteria in developing a forward-looking economic cost model to determine universal service support, that "all underlying data, formulae, computations, and software associated with the model should be available to

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[113] We recognize that state commissions may have limited resources to run the model. *See* Petitioners' Reply Comments at 7-8. The process the Bureau employs to run the model is expressly designed to permit the review and input of affected parties, however, and the Bureau is committed to ensuring that *all* parties can run the model. *See Federal-State Joint Board on Universal Service,* Docket No. 96-45, Order on Reconsideration, DA 03-3867, para. 7 (Wireline Compet. Bur. rel. Dec. 5, 2003). We note that, in addition to making the model and inputs available on its website, or under a protective order or licensing agreement, Commission staff worked with Petitioners in assisting them to run the model. *See* Petitioners' Reply Comments at 11. We are not persuaded that the pendency of the *Delphi Public Notice* prevented Petitioners from adequately commenting on the Bureau's proposal to update model input data for the purpose of determining support for 2002. *See* Maine/Vermont Petition at 9-10; *Common Carrier Bureau Seeks Comment on Translation of Cost Model to Delphi Computer Language and Announces Posting of Updated Cost Model,* CC Docket No. 96-45, Public Notice, 16 FCC Rcd 12630 (2001) (*Delphi Public Notice*). The *Delphi Public Notice* was merely an invitation for comment on whether the Bureau should consider using this version of the model, which was translated to Delphi computer language, rather than the Turbo-Pascal computer language version, to calculate non-rural high-cost support for 2002.

[114] *See* Maine/Vermont Petition at 10.

[115] *See 2002 Line Counts Update Public Notice* at 3.

[116] *See* Verizon Comments, filed Oct. 4, 2001, at 3-4 (Verizon 2002 Public Notice Comments).

[117] *See 2002 Line Counts Update Order*, 16 FCC Rcd at 22423, n. 40.

[118] Year 2000 ARMIS data was filed with the Commission no later than April 2, 2001. These data are available at http://gullfoss2.fcc.gov/cgi-bin/websql/prod/ccb/armis1/forms/armis.hts on the Commission's website.

[119] *See* Maine/Vermont Petition at 9.

all interested parties for review and comment."[120] Consistent with this principle, the Commission has determined that line count data used for wire centers that receive high-cost support should be publicly available.[121] In addition, line count data for wire centers that do not receive high-cost support are available pursuant to the Bureau's *Interim Protective Order*.[122] Year-end 2000 line count data used to estimate high-cost support for 2002 was filed by non-rural carriers by July 31, 2001, and therefore was available to Petitioners at the time of the release of the *2002 Line Counts Public Notice* on September 11, 2001.[123]

V. ORDERING CLAUSES

34. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 1-4, 201-205, 214, 218-220, 254, 303(r), 403, and 410 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 201-205, 214, 218-220, 254, 303(r), 403, and 410, and section 1.108 of the Commission's rules, 47 C.F.R. § 0.91(f), this ORDER IS ADOPTED.

35. IT IS FURTHER ORDERED that, pursuant to sections 4, 201-205, 218-220, 303(r), and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154, 201-205, 218-220, 303(r), and 405 of the Communications Act of 1934, as amended, and sections 1.106 and 1.429 of the Commission's rules, 47 C.F.R. §§ 1.106, 1.429, that the petition for reconsideration filed February 25, 2002, by the Maine Public Utilities Commission and Vermont Public Service Board is DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Carol E. Mattey
Deputy Chief, Wireline Competition Bureau

[120] *First Report and Order*, 12 FCC Rcd at 8915, para. 250.

[121] Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order, 15 FCC Rcd 8746, 8750-51, para. 9 (2000) (*2000 Line Counts Confidentiality Order*).

[122] *Interim Protective Order,* 15 FCC Rcd at 10183, para. 1 ("This Protective Order is intended to facilitate and expedite review of line count data at the wire center level submitted pursuant to sections 36.611, 36.612, and 54.307 of the Commission's rules for wire centers not receiving high-cost universal service support.").

[123] *See 2002 Line Counts Update Notice*; 47 C.F.R. §§ 36.611; 36.612; 54.307.